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10 **UNITED STATES DISTRICT COURT**  
11 **FOR THE DISTRICT OF NEVADA**

12 ALEX GILBERT, an individual; DIANE  
13 GILBERT, an individual;

14 Plaintiffs,

15 v.

16 INTEGRATED FINANCIAL ASSOCIATES, INC.,  
17 a Nevada corporation; KEN TEMPLETON, an  
18 individual; WILLIAM DYER, an individual; ALAN  
19 R. SMITH an individual TOWN CENTER  
20 LENDER GROUP LLC, a Nevada limited liability  
21 company; INTEGRATED MANAGERS LLC, a  
22 Nevada limited liability company; WESTERN  
23 ALLIANCE BANCORPORATION dba BANK OF  
24 NEVADA, a Delaware corporation; DOES I-X;  
25 ROES XI-XX;

26 Defendants.

Case No.: 2:21-cv-02244-JCM-EJY

27 **MOTION TO EXTEND DEADLINE TO**  
28 **FILE RESPONSE WESTERN ALLIANCE**  
**BANCORPORATION DBA BANK OF**  
**NEVADA’S MOTION TO DISMISS**  
**COMPLAINT OR, IN THE**  
**ALTERNATIVE, FOR SUMMARY**  
**JUDGMENT**

**( FIRST REQUEST)**

29 COMES now Plaintiffs Alex and Diane Gilbert by and through their counsel  
30 Law Offices of Byron Thomas and files this Motion to Extend Deadline to File  
31 Response to Western Alliance Bancorporation DBA Bank of Nevada’s Motion to  
32 Dismiss or in the Alternative Motion for Summary Judgment (the “Request”). This  
33 first Request is based on the points of authorities and any argument ordered by the  
34 Court

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## POINTS AND AUTHORITIES

### A. Request for Extension

Federal Rule of Civil Procedure 6(b) provides:

#### b) EXTENDING TIME.

(1) In General. When an act may or must be done within a specified time, the court may, for good cause, extend the time:

(A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or

(B) on motion made after the time has expired if the party failed to act because of excusable neglect.

(2) Exceptions. A court must not extend the time to act under Rules 50(b) and (d), 52(b), 59(b), (d), and (e), and 60(b).

Local Rule IA 6-1 in relevant part states that "[ e]very motion or stipulation to extend time shall inform the Court of any previous extensions granted and state the reasons for the extension requested," The Defendant WESTERN ALLIANCE BANCORPORATION dba BANK OF NEVADA filed a Motion to Dismiss Complaint or in the Alternative Motion for Summary Judgment on February 24, 2022 (the "Motion"). A party has 21 days to respond to a motion for summary judgment. LR 7-2(b). Therefore, the motion is timely and Plaintiff must only show good cause.

Courts interpreting FRCP 6(b) have held the rule "(is] to be liberally construed to effectuate the general purpose of seeing that cases are tried on the merits.'" Ananchian v. Xenon Pictures, Inc. 624 F.3d 1253, 1258-59 (9th Cir. 2010) quoting Rodgers v. Watt, 722 F.2d 456, 459 (9th Cir. 1983) quoting Staren v. American Nat'l Bank & Trust Co. of Chicago, 529 F.2d 1257, 1263 (7th Cir. 1976); see also Fed. R. Civ. P. 1 ("[The Federal Rules] should be construed and administered to secure the just, speedy, and inexpensive determination of every action and proceeding.").

### B Danger of Prejudice

The Ninth Circuit has stated its preference for adjudicating claims on the merits, largely in the name of judicial economy. Moradi v. Adelson, No. 11-00595, Docket #50 at 3 (D. Nev. 2011)

1 citing, Molfetta v. Time Ins. Co., No. 2:07-cv-01240- JCM-LRL, 2010 WL 2041703, at \*1 (D. Nev.  
2 May 17, 2010) ("Due to the judicial preference of adjudicating issues on the merits, the court has  
3 exercised its discretion and considered Plaintiffs untimely opposition, and all arguments presented  
4 therein."); and cf Dayton Valley Investors, LLC v. Union Pac, RR Co., 664 F. Supp. 2s 1174, 1179  
5 (D. Nev. 2009) (finding good cause for allowing a belated summary judgment motion where the  
6 Court would 'eventually address" the issues raised in that motion).

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8 There is no danger of prejudice. No hearing has been set on the Motion. The discovery plan  
9 is not yet due, no trial date has been set. Therefore, a ten-day delay should not prejudice the parties.

10 **C. Length of Delay.**

11 Plaintiffs seek a ten day extension. In analyzing the length of the delay the  
12 Ahanachian, Court looked at the effect the delay would have on the summary judgment hearing date  
13 and the date of the trial. 624 F.3d at 1262. In the instant case the delay would have a negligible  
14 effect on the case, because of the early stage of the case. No hearing or trial date has been set.

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Counsel for Plaintiffs has been ill for several days. Counsel is also preparing for trial. Counsel for Plaintiffs is a solo practitioner and therefore there is no other party that can handle these matters. Thus, the Plaintiffs need the additional time to file a response to the Motion.

For the foregoing reason the Plaintiffs respectfully request a ten day extension of the deadline to file a response to the Motion.

LAW OFFICES OF BYRON THOMAS

IT IS SO ORDERED:

James C. Mahan  
UNITED STATES DISTRICT JUDGE, ,

DATED: March 18, 2022